

THE HON'BLE SRI JUSTICE A.V. SESA SAI

W.P.No.17196 of 2007

ORDER:

This writ petition is filed under Article 226 of the Constitution of India, for the following relief:

“To issue a writ, order or direction more in the nature of Writ of Mandamus declaring the action of the respondents in directing the petitioners to evict from the lands situated in Survey Numbers 40, 41, 62/2, 44, 62, 48, 51, 9, 10, 48, 1, 107, 48, 48, 11, 107 and 45 and 48 to an extent of Acres 704, 4, 16, 9-16, 5-38, 8-00 10-00 and 6-00 respectively to a total extent of Acres.50-34 situated at Mothapattimallur (Mothe), Pinapaka Mandal of Khammam District as arbitrary, illegal, unreasonable without any authority, without proper notice and without conducting any enquiry and also contrary to the Orders of the Honourable High Court in W.P.No.15996 of 1996 dated 18.4.1996 and also violative of Article 14, 16, 21 and 300(A) of the Constitution of India, and consequentially direct the Respondents not to evict the petitioners from the above lands.”

2. Heard Sri P.V.Ramana, the learned counsel for the petitioners and the learned Government Pleader for Social Welfare.

3. Petitioners herein claim to be assignees or the legal representatives of the assignees of the subject lands. Earlier, when W.P.No.15996 of 1996 was filed before this Court in respect of the same subject lands, this Court disposed of the said writ petition by way of an order dated 18.04.2006 and the operative portion of the said order reads as under:

“The pleadings of the rival parties would show that there is a dispute regarding the identity of the property, which is in possession of respondents 3 and 4. They allege that as they have been in possession of the land for over 50 years, they cannot be evicted, unless and until, there is any violation by them with reference to the Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959. There is force in the submission. However, if respondents 3 and 4 tried to trespass into the land assigned to the petitioners in 1972, it is the duty of the second respondent to protect their possession as directed by the first respondent. This Court hastens to add that this action can be taken after conducting a proper enquiry by respondents 1 and 2 as to whether respondents 3 and 4 are in possession of the land, which was assigned to the petitioners in 1972.

For the above brief reasons, the Writ Petition is disposed of directing respondents 1 and 2 to conduct enquiry in the matter. If the land, which is in possession of respondents 3 and 4, is not other than the land assigned to the petitioners, the appropriate action may be initiated under Regulation No.I of 1959. No costs.”

4. Subsequently, the Tahsildar, Pinapaka Mandal, Pinapaka, Khammam District, issued a notice bearing Rc.No.B/530/2007, dated Nil-05-2007, under the provisions of Rule 3 of the A.P. Assigned Lands (Prohibition of Transfer) Rules, 2007 in Form-I, asking the petitioners to show-cause as to why the assignments made in their favour should not be cancelled and the lands be not resumed

5. According to the petitioners, responding to the said notices, petitioners submitted an explanation on 02.07.2007. It is stated in the affidavit filed in support of the writ petition that without passing any orders on the said replies/representations, the Tahsildar asked the petitioners not to enter into the lands. In the above background, the present writ petition came to be filed.

6. This Court, while ordering *Rule Nisi* on 13.08.2007, granted interim direction in WPMP.No.21997 of 2007 directing the respondents not to evict the petitioners from the subject lands. The said interim order granted by this Court is still subsisting. No counter affidavit has been filed so far.

7. According to the learned counsel for the petitioners no orders have been passed so far by the Tahsildar pursuant to the notices issued under Rule 3 of the A.P. Assigned Lands (Prohibition of Transfer) Rules, 2007.

8. Since this Court admitted the writ petition as long back as on 13.08.2007 and as the interim orders granted by this Court are still subsisting, this Court is of the considered opinion that the ends of justice would be served if the fourth respondent, Tahsildar is directed to pass appropriate orders pursuant to the notices bearing Rc.No.B/530/2007 dated Nil-05-2007 in respect of the subject lands.

9. For the aforesaid reasons, the writ petition is disposed of, directing the

fourth respondent, Tahsildar to pass appropriate orders pursuant to the notices bearing Rc.No.B/530/2007 dated Nil-05-2007 issued in respect of the subject lands situated in Survey Numbers 40, 41, 62/2, 44, 62, 48, 51, 9, 10, 48, 1, 107, 48, 48, 11, 107 and 45 and 48 to an extent of Acres 704, 4, 16, 9-16, 5-38, 8-00 10-00 and 6-00 respectively to a total extent of Acs.50-34 situated at Mothapattimallur (Mothe), Pinapaka Mandal of Khammam District, by taking into consideration the explanation offered by the petitioners on 02.07.2007, after giving notice and opportunity of being heard to the petitioners. Till such exercise attains finality, the interim order granted by this Court on 13.08.2007 in WPMP.No.21997 of 2007 in W.P.No.17196 of 2007 shall continue to operate. As a sequel, miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V. SESA SAI, J

Date:11.7.2016

grk

-
-
-
-
-
-
-
-
-
-
-

THE HON'BLE SRI JUSTICE A.V. SESA SAI

-
-
-
-
-
-
-
-
-
-

-
-
-
-
-
-
-

-
-
-
-

-

W.P.No.17196 of 2007

Dated 11th July, 2016

grk